

§ 203.6

12 CFR Ch. II (1–198 Edition)

offices, and mail or deliver a copy of the disclosure statement, within fifteen calendar days of receiving a written request (the disclosure statement need only contain data relating to the MSA for which the request is made). Including the address in the general notice required under paragraph (e) of this section satisfies this requirement.

(c) *Public disclosure of loan application register.* A financial institution shall make its loan application register available to the public after modifying it in accordance with appendix A. An institution shall make its modified register available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1. The modified register need only contain data relating to the MSA for which the request is made.

(d) *Availability of data.* A financial institution shall make its modified register available to the public for a period of three years and its disclosure statement available for a period of five years. An institution shall make the data available for inspection and copying during the hours the office is normally open to the public for business. It may impose a reasonable fee for any cost incurred in providing or reproducing the data.

(e) *Notice of availability.* A financial institution shall post a general notice about the availability of its HMDA data in the lobby of its home office and of each branch office located in an MSA. It shall promptly upon request provide the location of the institution's offices where the statement is available for inspection and copying, or it may include the location in the notice.

[58 FR 13405, Mar. 11, 1993, as amended at Reg. C, 59 FR 63704, Dec. 9, 1994; 62 FR 28623, May 27, 1997]

§ 203.6 Enforcement.

(a) *Administrative enforcement.* A violation of the act or this regulation is subject to administrative sanctions as provided in section 305 of the act, including the imposition of civil money penalties, where applicable. Compliance is enforced by the agencies listed in appendix A of this regulation.

(b) *Bona fide errors.* An error in compiling or recording loan data is not a violation of the act or this regulation if it was unintentional and occurred despite the maintenance of procedures reasonably adapted to avoid such errors.

[54 FR 51362, Dec. 15, 1989, as amended at 56 FR 59857, Nov. 26, 1991]

APPENDIX A TO PART 203—FORM AND INSTRUCTIONS FOR COMPLETION OF HMDA LOAN/APPLICATION REGISTER

PAPERWORK REDUCTION ACT NOTICE

Public reporting burden for collection of this information is estimated to vary from 10 to 10,000 hours per response, with an average of 202 hours per response for state member banks and 160 hours per response for mortgage banking subsidiaries, including time to gather and maintain the data needed and to review instructions and complete the information collection. This report is required by law (12 U.S.C. 2801–2810 and 12 CFR part 203). An agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control number for this information collection is 7100–0247. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

I. WHO MUST FILE A REPORT

A. Depository Institutions

1. Subject to the exception discussed below, banks, savings associations, and credit unions must complete a register listing data about loan applications received, loans originated, and loans purchased if on the preceding December 31 an institution:

a. Had assets of more than the asset threshold for coverage as published by the Board each year in December, and

b. Had a home or a branch office in a “metropolitan statistical area” or a “primary metropolitan statistical area” (both are referred to in these instructions by the term “MSA”).

2. For data collection in 1997, the asset threshold is \$28 million in total assets as of December 31, 1996.

3. *Example.* If on December 31 you had a home or branch office in an MSA and your assets exceeded the asset threshold, you must complete a register that lists the home-purchase and home-improvement loans

that you originate or purchase (and also lists applications that did not result in an origination) beginning January 1.

B. Depository Institutions—Exception

You need not complete a register—even if you meet the tests for asset size and location—if your institution is a bank, savings association, or credit union that made *no* first-lien home purchase loans (including refinancings) on one-to-four-family dwellings in the preceding calendar year. This exception does not apply in the case of nondepository institutions.

C. Other Lending Institutions

Subject to the exception discussed below, for-profit mortgage lending institutions (other than banks, savings associations, and credit unions) must complete a register listing data about loan applications received, loans originated, and loans purchased if the institution had a home or branch office in an MSA on the preceding December 31, and

1. Had assets of more than \$10 million (based on the combined assets of the institution and any parent corporation) on the preceding December 31, or
2. Originated 100 or more home purchase loans (including refinancings of such loans) during the preceding calendar year, regardless of asset size.

D. Other Lending Institutions—Exception

You need not complete a register—even if you meet the tests for location and asset size or number of home purchase loans—if your institution is a for-profit mortgage lender (other than a bank, savings association, or credit union) and home purchase loans that you originated in the preceding calendar year (including refinancings) came to less than 10 percent of your total loan origination volume, measured in dollars.

E. If you are the subsidiary of a bank or savings association you must complete a separate register for your institution. You will submit the register, directly or through your parent, to the agency that supervises your parent. (See paragraph VI.)

F. Institutions that are specifically exempted by the Federal Reserve Board from complying with the federal Home Mortgage Disclosure Act because they are covered by a similar state law on mortgage loan disclosures must use the disclosure form required by their state law and submit the data to their state supervisory agency.

II. REQUIRED FORMAT AND REPORTING PROCEDURES

A. Institutions must submit data to their supervisory agencies in an automated, machine-readable form. The format must conform exactly to that of form FR HMDA-LAR, including the order of columns, column head-

ings, etc. Contact your federal supervisory agency for information regarding procedures and technical specifications for automated data submission; in some cases, agencies also make software for automated data submission available to institutions. The data must be edited before submission, using the edits included in the agency-supplied software or equivalent edits in software available from vendors or developed in-house. (Institutions that report 25 or fewer entries on their HMDA-LAR may collect and report the data in paper form. An institution that submits its register in nonautomated form must send two copies that are typed or computer printed, and must use the format of form FR HMDA-LAR (but need not use the form itself). Each page must be numbered, and the total number of pages must be given (for example, "Page 1 of 3").)

B. The required data are to be entered in the register for each loan origination, each application acted on, and each loan purchased during the calendar year. Your institution should decide on the procedure it wants to follow—for example, whether to begin entering the required data when an application is received, or to wait until final action is taken (such as when a loan goes to closing or an application is denied). Keep in mind that an application is to be reported in the calendar year when final action is taken. Report loan originations in the year they go to closing; if an application has been approved but has not yet gone to closing at year-end, report it the following year.

C. Your institution may collect the data on separate registers at different branches, or on separate registers for different loan types (such as for home purchase or home improvement loans, or for loans on multi-family dwellings). But make sure the application or loan numbers (discussed under paragraph V.A.1., below) are unique.

D. Entries need not be grouped on your register by MSA, or chronologically, or by census tract numbers, or in any other particular order.

E. Applications and loans must be recorded on your register within thirty calendar days after the end of the calendar quarter in which final action (such as origination or purchase of a loan, or denial or withdrawal of an application) is taken. The type of purchaser for loans sold need not be included in these quarterly updates.

III. SUBMISSION OF HMDA-LAR AND PUBLIC RELEASE OF DATA

A. You must submit the data for your institution to the office specified by your supervisory agency no later than March 1 following the calendar year for which the data are compiled. A list of the agencies appears at the end of these instructions.

B. You must submit all required data to your supervisory agency *in one complete package*, with the prescribed transmittal sheet. An officer of your institution must certify to the accuracy of the data. Any additional data submissions that become necessary (for example, because you discover that data were omitted from the initial submission, or because revisions are called for) also must be accompanied by a transmittal sheet.

C. The transmittal sheet must state the total number of line entries contained in the accompanying data submission. If the data submission involves revisions or deletions of previously submitted data, state the total of *all* line entries contained in *that submission*, including both those representing revisions or deletions of previously submitted entries, and those that are being resubmitted unchanged or are being submitted for the first time. If you are a depository institution, you also are asked to provide a list of the MSAs where you have a home or branch office.

D. *Availability of disclosure statement.* 1. The Federal Financial Institutions Examination Council (FFIEC) will prepare a disclosure statement from the data you submit. Your disclosure statement will be returned to the name and address indicated on the transmittal sheet. Within three business days of receiving the disclosure statement, you must make a copy available at your home office for inspection by the public. For these purposes a business day is any calendar day other than a Saturday, Sunday, or legal public holiday. You also must either:

a. Make your disclosure statement available to the public, within ten business days of receiving it from the FFIEC, in at least one branch office in each additional MSA where you have offices (the disclosure statement need only contain data relating to properties in the MSA where the branch office is located); or

b. Post in the lobby of each branch office in an MSA the address where a written request for the disclosure statement may be sent, and mail or deliver a copy of the statement to any person requesting it, within fifteen calendar days of receiving a written request. The disclosure statement need only contain data relating to the MSA for which the request is made.

2. You may make the disclosure statement available in paper form or, if the person requesting the data agrees, in automated form (such as by PC diskette or computer tape).

E. *Availability of modified loan application register.*

1. To protect the privacy of applicants and borrowers, an institution must modify its loan application register by removing the following information before releasing it to the public: the application or loan number, date application received, and date of action taken.

2. You may make the modified register available in paper or automated form (such as by PC diskette or computer tape). Although you are not required to make the modified loan application register available in census-tract order, you are strongly encouraged to do so in order to enhance its utility to users.

3. You must make your modified register available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1. You are not required to prepare a modified loan application register in advance of receiving a request from the public for this information, but must be able to respond to a request within 30 days. A modified register need only reflect data relating to the MSA for which the request is made.

F. *Posters.*

1. *Suggested language.* Some of the agencies provide HMDA posters that you can use to inform the public of the availability of your HMDA data, or you may create your own posters. If you print your own, the following language is suggested but is not required:

Home Mortgage Disclosure Act Notice

The HMDA data about our residential mortgage lending are available for review. The data show geographic distribution of loans and applications; race, gender, and income of applicants and borrowers; and information about loan approvals and denials. Inquire at this office regarding the locations where HMDA data may be inspected.

2. *Additional language for institutions making the disclosure statement available upon request.* For an institution that makes its disclosure statement available upon request instead of at branch offices must post a notice informing the public of the address to which a request should be sent. For example, the institution could include the following sentence in its general notice: "To receive a copy of these data send a written request to [address]."

IV. TYPES OF LOANS AND APPLICATIONS COVERED AND EXCLUDED BY HMDA

A. *Types of Loans and Applications to be Reported*

1. Report the data on home purchase and home improvement loans that you originated (that is, loans that were closed in your name) and loans that you purchased during the calendar year covered by the report. Report these data even if the loans were subsequently sold by your institution. Include refinancings of home purchase and home improvement loans.

2. Report the data for applications for home purchase and home improvement loans

that did not result in originations—for example, applications that your institution denied or that the applicant withdrew during the calendar year covered by the report.

3. In the case of brokered loan applications or applications forwarded to you through a correspondent, report as originations loans that you approved and subsequently acquired according to a pre-closing arrangement (whether or not they closed in your institution's name). Additionally, report the data for all applications that did not result in originations—for example, applications that your institution denied or that the applicant withdrew during the calendar year covered by the report (whether or not they would have closed in your institution's name). For all of these loans and applications, report the race or national origin, sex, and income information, unless your institution is a bank, savings association, or credit union with assets of \$30 million or less on the preceding December 31.

4. Originations are to be reported only once. If you are the loan broker or correspondent, do not report as originations loans that you forwarded to another lender for approval prior to closing, and that were approved and subsequently acquired by that lender (whether or not they closed in your name).

5. Report applications that were received in the previous calendar year but were acted upon during the calendar year covered by the current register.

B. Data To Be Excluded

Do not report loans or applications for loans of the following types:

1. Loans that, although secured by real estate, are made for purposes other than home purchase, home improvement, or refinancing (for example, do not report a loan secured by residential real property for purposes of financing college tuition, a vacation, or goods for business inventory).
2. Loans made in a fiduciary capacity (for example, by your trust department).
3. Loans on unimproved land.
4. Construction or bridge loans and other temporary financing.
5. The purchase of an interest in a pool of loans (such as mortgage-participation certificates).
6. The purchase solely of the right to service loans.

V. INSTRUCTIONS FOR COMPLETION OF LOAN/ APPLICATION REGISTER

A. Application or Loan Information

1. Application or Loan Number

Enter an identifying number that can be used later to retrieve the loan or application file. It can be any number of your choosing

(not exceeding 25 characters). You may use letters, numerals, or a combination of both.

Make sure that all numbers are unique within your institution. If your register contains data for branch offices, for example, you could use a letter or a numerical code to identify the loans or applications of different branches, or could assign a certain series of numbers to particular branches to avoid duplicate numbers. You are strongly encouraged not to use the applicant's or borrower's name or social security number, for privacy reasons.

2. Date Application Received

Enter the date the loan application was received by your institution by month, day, and year, using numerals in the form MM/DD/YY (for example, 01/15/92). If your institution normally records the date shown on the application form, you may use that date instead. Enter "NA" for loans purchased by your institution.

3. Type

Indicate the type of loan or application by entering the applicable code from the following:

- 1—Conventional (any loan other than FHA, VA or FmHA loans)
- 2—FHA-insured (Federal Housing Administration)
- 3—VA-guaranteed (Veterans Administration)
- 4—FmHA-insured (Farmers Home Administration)

4. Purpose

Indicate the purpose of the loan or application by entering the applicable code from the following:

- 1—Home purchase (one-to-four family)
- 2—Home improvement (one-to-four family)
- 3—Refinancing (home purchase or home improvement, one-to-four family)
- 4—Multifamily dwelling (home purchase, home improvement, and refinancings)

5. Explanation of Purpose Codes

Code 1: Home purchase.

a. This code applies to loans and applications made for the purpose of purchasing a residential dwelling for one to four families, if the loan is to be secured by the dwelling being purchased or by another dwelling.

b. At your option, you may use code 1 for loans that are made for home improvement purposes but are secured by a first lien, if you normally classify such first-lien loans as home purchase loans.

Code 2: Home improvement.

a. Code 2 applies to loans and applications for loans if (i) a portion of the proceeds is to be used for repairing, rehabilitating, remodeling, or improving a one- to four-family residential dwelling, or the real property upon

which it is located, and (ii) the loan is classified as a home improvement loan.

b. Report both secured and unsecured loans.

c. At your option, you may report data about home-equity lines of credit—even if the credit line is not classified as a home improvement loan. If you choose to do so, you may report a home-equity line of credit as a home improvement loan if some portion of the proceeds will be used for home improvement. (See Paragraph 8, “Loan amount.”) If you report originations of home-equity lines of credit, you must also report applications for such loans that did not result in originations.

Code 3: Refinancings.

a. Use this code for refinancings (and applications for refinancings) of loans secured by one- to four-family residential dwellings. A refinancing involves the satisfaction of an existing obligation that is replaced by a new obligation undertaken by the same borrower. But do not report a refinancing if, under the loan agreement, you are unconditionally obligated to refinance the obligation, or you are obligated to refinance the obligation subject to conditions within the borrower’s control.

b. Use this code whether or not you were the original creditor on the loan being refinanced, and whether or not the refinancing involves an increase in the outstanding principal.

c. You may report all refinancings of loans secured by one- to four-family residential dwellings, regardless of the purpose of or amount outstanding on the original loan, and regardless of the amount of new money (if any) that is for home purchase or home improvement purposes.

Code 4: Multifamily dwelling.

a. Use this code for loans and loan applications on dwellings for five or more families, including home purchase loans, refinancings, and loans for repairing, rehabilitation, and remodeling purposes.

b. Do not use this code for loans on individual condominium or cooperative units; use codes 1, 2, or 3 for such loans, as applicable.

6. Owner Occupancy

Indicate whether the property to which the loan or loan application relates is to be owner-occupied as a principal dwelling by entering the applicable code from the following:

- 1—Owner-occupied as a principal dwelling
- 2—Not owner-occupied
- 3—Not applicable

7. Explanation of Codes

a. Use code 2 for second homes or vacation homes, as well as rental properties.

b. Use code 2 only for nonoccupant loans, or applications for nonoccupant loans, relat-

ed to one-to-four family dwellings (including individual condominium or cooperative units).

c. Use code 3 if the property to which the loan relates is a multifamily dwelling; is not located in an MSA; or is located in an MSA in which your institution has neither a home nor a branch office.

d. For purchased loans, you may assume that the property will be owner-occupied as a principal dwelling (code 1) unless the loan documents or application contain information to the contrary.

8. Loan Amount

Enter the amount of the loan or application. Do not report loans below \$500. Show the amount in thousands rounding to the nearest thousand (\$500 should be rounded up to the next \$1,000). For example, a loan for \$167,300 should be entered as 167 and one for \$15,500 as 16.

a. For home purchase loans that you originate, enter the principal amount of the loan as the loan amount. For home purchase loans that you purchase, enter the unpaid principal balance of the loan at the time of purchase as the loan amount.

b. For home improvement loans (both originations and purchases), you may include unpaid finance charges in the loan amount if that is how you record such loans on your books. For a multiple purpose loan classified by you as a home improvement loan because it involves a home improvement purpose, enter the full amount of the loan, not just the amount specified for home improvement.

c. For home-equity lines of credit (if you have chosen to report them), enter as the loan amount only that portion of the line that is for home improvement purposes. Report the loan amount for applications that did not result in originations in the same manner. Report only in the year the line is established.

d. For refinancings of dwelling-secured loans, indicate the total amount of the refinancing, including the amount outstanding on the original loan and the amount of new money (if any).

e. For a loan application that was denied or withdrawn, enter the amount applied for.

f. If you make a counteroffer for an amount different from the amount initially applied for, and the counteroffer is accepted by the applicant, report it as an origination for the amount of the loan actually granted. If the applicant turns down the counteroffer or fails to respond, report it as a denial for the amount initially requested.

B. Action Taken

1. *Type of action.* Indicate the type of action taken on the application or loan by

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using one of the following codes. Do not report any loan application still pending at the end of the calendar year; you will report that application on your register for the year in which final action is taken.

- 1—Loan originated
- 2—Application approved but not accepted
- 3—Application denied
- 4—Application withdrawn
- 5—File closed for incompleteness
- 6—Loan purchased by your institution

2. Explanation of Codes

a. Use code 1 for a loan that is originated, including one resulting from a counteroffer (your offer to the applicant to make the loan on different terms or in a different amount than initially applied for) that the applicant accepts.

b. Use code 2 when an application is approved but the applicant (or a loan broker or correspondent) fails to respond to your notification of approval or your commitment letter within the specified time.

c. Use code 3 when an application is denied. This includes the situation when an applicant turns down or fails to respond to your counteroffer. Do *not* report as a withdrawn application or as an application that was approved but not accepted.

d. Use code 4 only when an application is expressly withdrawn by the applicant before a credit decision was made.

e. Use code 5 if you sent a written notice of incompleteness under §202.9(c)(2) of Regulation B (Equal Credit Opportunity) and the applicant failed to respond to your request for additional information within the period of time specified in your notice.

3. Date of Action

Enter the date by month, day, and year, using numerals in the form MM/DD/YY (for example, 02/22/92).

a. For loans originated, enter the settlement or closing date. For loans purchased, enter the date of purchase by your institution.

b. For applications denied, applications approved but not accepted by the applicant, and files closed for incompleteness, enter the date that the action was taken by your institution or the date the notice was sent to the applicant.

c. For applications withdrawn, enter the date you received the applicant's express withdrawal; or you may enter the date shown on the notification from the applicant, in the case of a written withdrawal.

C. Property Location

In these columns enter the applicable codes for the MSA, state, county, and census tract for the property to which a loan relates. For home purchase loans secured by one dwelling, but made for the purpose of

purchasing another dwelling, report the property location for the property in which the security interest is to be taken. If the home purchase loan is secured by more than one property, report the location data for the property being purchased. (See paragraphs 5., 6., and 7. of paragraph V.C. of this appendix for treatment of loans on property outside the MSAs in which you have offices.)

1. MSA

For each loan or loan application, indicate the location of the property by the MSA number. Enter only the MSA number, not the MSA name. MSA boundaries are defined by the U.S. Office of Management and Budget; use the boundaries that were in effect on January 1 of the calendar year for which you are reporting. A listing of MSAs is available from your regional supervisory agency or the FFIEC. (In these instructions, the term MSA refers to both metropolitan statistical area and primary metropolitan statistical area.)

2. State and County

You must use the Federal Information Processing Standard (FIPS) two-digit numerical code for the state and the three-digit numerical code for the county. These codes are available from your regional supervisory agency or the FFIEC. Do not use the letter abbreviations used by the U.S. Postal Service.

3. Census Tract

Indicate the census tract where the property is located.

a. Enter the code "NA" if the property is located in an area not divided into census tracts on the U.S. Census Bureau's census-tract outline maps (see paragraph 4. below).

b. If the property is located in a county with a population of 30,000 or less in the 1990 census (as determined by the Census Bureau's 1990 CPH-2 population series), enter "NA" (even if the population has increased above 30,000 since 1990), or you may enter the census tract number.

4. Census Tract Number

For the census tract number, consult the U.S. Census Bureau's Census Tract/Street Index for 1990, and for addresses not listed in the index, consult the Census Bureau's census tract outline maps. You must use the maps from the Census Bureau's 1990 CPH-3 series, or equivalent 1990 census data from the Census Bureau (such as the Census TIGER/Line File) or from a private publisher.

5. Outside-MSA

For loans on property located outside the MSAs in which you have a home or branch office (or outside any MSA), you have two options. Under option 1, you may enter the

MSA, state, and county codes and the census tract number. You may enter “NA” in the MSA or census tract column if no code or number exists for the property. (Codes exist for all states and counties.) If you choose option 1, the codes and tract number must accurately identify the location for the property in question. Under option 2, you may enter “NA” in all four columns, whether or not the codes or number exist for the property.

6. *Nondepository Lenders*

If you are a for-profit mortgage lending institution (other than a bank, savings association, or credit union), and in the preceding calendar year you received applications for, or originated or purchased, loans for home purchase or home improvement adding up to a total of five or more for a given MSA, you are deemed to have a branch office in that MSA, whether or not you have a physical office there. As a result, you will have to enter the MSA, state, county, and census tract numbers for any transactions in that MSA. Because you must keep accurate records about lending within MSAs in the current calendar year in order to report data accurately the following year, to comply with this rule you may find it easier to enter the geographic information routinely for any property located within any MSA.

7. *Data Reporting Under CRA for Banks and Savings Associations With Total Assets of \$250 Million or More and Banks and Savings Associations That Are Subsidiaries of a Holding Company Whose Total Banking and Thrift Assets Are \$1 Billion or More*

If you are a bank or savings association with total assets of \$250 million or more as of December 31 for each of the immediately preceding two years, you must also enter the location of property located outside the MSAs in which you have a home or branch office, or outside any MSA. You must also enter this information if you are a bank or savings association that is a subsidiary of a holding company with total banking and thrift assets of \$1 billion or more as of December 31 for each of the immediately preceding two years.

D. Applicant Information—Race or National Origin, Sex, and Income

Appendix B of Regulation C contains instructions for the collection of data on race or national origin and sex, and also contains a sample form for data collection. The form is substantially similar to the form prescribed by §202.13 of Regulation B (Equal Credit Opportunity) and contained in appendix B to that regulation. You may use either form.

1. *Applicability*

You must report this applicant information for loans that you originate as well as for applications that do not result in an origination.

a. You need not collect or report this information for loans purchased. If you choose not to, enter the codes specified in paragraphs 3., 4., and 5. below for “not applicable.”

b. If your institution is a bank, savings association, or credit union that had assets of \$30 million or less on the preceding December 31, you may—but need not—collect and report these data. If you choose not to, enter the codes specified in paragraphs 3., 4., and 5. below for “not applicable.”

c. If the borrower or applicant is not a natural person (a corporation or partnership, for example), use the codes specified in paragraphs 3., 4., and 5. below for “not applicable.”

2. *Mail and Telephone Applications*

Any loan applications mailed to applicants must contain a collection form similar to that shown in appendix B, and you must record on your register the data on race or national origin and sex if the applicant provides it. If the applicant chooses not to provide the data, enter the code for “information not provided by applicant in mail or telephone application” specified in paragraphs 3. and 4. below. If an application is taken entirely by telephone, you need not request this information. (See appendix B for complete information on the collection of this data in mail or telephone applications.)

3. *Race or National Origin of Borrower or Applicant*

Use the following codes to indicate the race or national origin of the applicant or borrower under column “A” and of any co-applicant or co-borrower under column “CA.” If there is more than one co-applicant, provide this information only for the first co-applicant listed on the application form. If there are no co-applicants or co-borrowers, enter code 8 for “not applicable” in the co-applicant column.

- 1—American Indian or Alaskan Native
- 2—Asian or Pacific Islander
- 3—Black
- 4—Hispanic
- 5—White
- 6—Other

7—Information not provided by applicant in mail or telephone application

8—Not applicable

4. *Sex of Borrower or Applicant*

Use the following codes to indicate the sex of the applicant or borrower under column “A” and of any co-applicant or co-borrower

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under column "CA." If there is more than one co-applicant, provide this information only for the first co-applicant listed on the application form. If there are no co-applicants or co-borrowers, enter code 4 for "not applicable."

- 1—Male
- 2—Female
- 3—Information not provided by applicant in mail or telephone application
- 4—Not applicable

5. Income

Enter the gross annual income that your institution relied upon in making the credit decision.

- a. Round all dollar amounts to the nearest thousand (round \$500 up to the next \$1,000), and show in terms of thousands. For example, \$35,500 should be reported as 36.
- b. For loans on multifamily dwellings, enter "NA."
- c. If no income information is asked for or relied on in the credit decision, enter "NA."

E. Type of Purchaser

1. Enter the applicable code to indicate whether a loan that your institution originated or purchased was then sold to a secondary market entity within the same calendar year:

- 0—Loan was not originated or was not sold in calendar year covered by register
- 1—FNMA (Federal National Mortgage Association)
- 2—GNMA (Government National Mortgage Association)
- 3—FHLMC (Federal Home Loan Mortgage Corporation)
- 4—FmHA (Farmers Home Administration)
- 5—Commercial bank
- 6—Savings bank or savings association
- 7—Life insurance company
- 8—Affiliate institution
- 9—Other type of purchaser

2. *Explanation of codes.* a. Enter the code 0 for applications that were denied, withdrawn, or approved but not accepted by the applicant; and for files closed for incompleteness.

b. If you originated or purchased a loan and did not sell it during that same calendar year, enter the code 0. If you sell the loan in a succeeding year, you need not report the sale.

c. If you conditionally assign a loan to GNMA in connection with a mortgage-backed security transaction, use code 2.

d. Loans "swapped" for mortgage-backed securities are to be treated as sales; enter the type of entity receiving the loans that are swapped as the purchaser.

e. Use code 8 for loans sold to an institution affiliated with you, such as your subsidiary or a subsidiary of your parent corporation.

F. Reasons for Denial

1. You are not required to enter the reasons for the denial of an application. But if you choose to do so, you may indicate up to three reasons by using the following codes:

- 1—Debt-to-income ratio
- 2—Employment history
- 3—Credit history
- 4—Collateral
- 5—Insufficient cash (downpayment, closing costs)
- 6—Unverifiable information
- 7—Credit application incomplete
- 8—Mortgage insurance denied
- 9—Other

2. Leave this column blank if the "action taken" on the application is not a denial. For example, do not complete this column if the application was withdrawn or the file was closed for incompleteness.

3. If your institution uses the model form for adverse action contained in the appendix to Regulation B (Form C-1 in appendix C, Sample Notification Form, which offers some 20 reasons for denial), the following list shows which codes to enter.

a. *Code 1 corresponds to:* Income insufficient for amount of credit requested, and Excessive obligations in relation to income.

b. *Code 2 corresponds to:* Temporary or irregular employment, and Length of employment.

c. *Code 3 corresponds to:* Insufficient number of credit references provided; Unacceptable type of credit references provided; No credit file; Limited credit experience; Poor credit performance with us; Delinquent past or present credit obligations with others; Garnishment, attachment, foreclosure, repossession, collection action, or judgment; and Bankruptcy.

d. *Code 4 corresponds to:* Value or type of collateral not sufficient.

e. *Code 6 corresponds to:* Unable to verify credit references, Unable to verify employment, Unable to verify income, and Unable to verify residence.

f. *Code 7 corresponds to:* Credit application incomplete.

g. *Code 9 corresponds to:* Length of residence, Temporary residence, and Other reasons specified on notice.

VI. Federal Supervisory Agencies

Send your loan/application register and direct any questions to the office of your federal supervisory agency as specified below. If you are the nondepository subsidiary of a bank, savings association, or credit union, send the register to the supervisory agency for your parent institution. Terms that are not defined in the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in the International Banking Act of 1978 (12 U.S.C. 3101).

Pt. 203, App. A

12 CFR Ch. II (1–1–98 Edition)

A. National Banks and Their Subsidiaries and Federal Branches and Federal Agencies of Foreign Banks.

District office of the Office of the Comptroller of the Currency for the district in which the institution is located.

B. State Member Banks of the Federal Reserve System, Their Subsidiaries, Subsidiaries of Bank Holding Companies, Branches and Agencies of Foreign Banks (other than federal branches, federal agencies, and insured state branches of foreign banks), Commercial Lending Companies Owned or Controlled by Foreign Banks, and Organizations Operating Under Section 25 or 25A of the Federal Reserve Act.

Federal Reserve Bank serving the district in which the state member bank is located; for institutions other than state member banks, the Federal Reserve Bank specified by the Board of Governors.

C. Nonmember Insured Banks (except for federal savings banks) and Their Subsidiaries and Insured State Branches of Foreign Banks.

Regional Director of the Federal Deposit Insurance Corporation for the region in which the institution is located.

D. Savings Institutions Insured Under the Savings Association Insurance Fund of the FDIC, Federally-Chartered Savings Banks Insured Under the Bank Insurance Fund of the FDIC (But Not Including State-Chartered Savings Banks Insured Under the Bank Insurance Fund), Their Subsidiaries, and Subsidiaries of Savings Institution Holding Companies

Regional or other office specified by the Office of Thrift Supervision.

E. Credit Unions

National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW., Washington, DC 20456.

F. Other Depository Institutions

Regional Director of the Federal Deposit Insurance Corporation for the region in which the institution is located.

G. Other Mortgage Lending Institutions

Assistant Secretary for Housing, HMDA Reporting—Room 9233, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410.

Form FR HMDA-LAR.
OMB No. 7100-0247. Approval expires May 31, 2000.

You must complete this transmittal sheet (please type or print) and attach it to the Loan/Application Register, required by the Home Mortgage Disclosure Act, that you submit to your supervisory agency.

The Loan/Application Register that is attached covers activity during the year _____ and contains a total of _____ pages.

Enter the name and address of your institution. The disclosure statement that is produced by the Federal Financial Institutions Examination Council will be mailed to the address you supply below:

Name of Institution

Address

City, State, ZIP

Enter the name, telephone number, and facsimile number of a person who may be contacted about questions regarding your register:

Name _____

Telephone Number

Facsimile Number (if applicable)

If your institution is a subsidiary of another institution or corporation, enter the name of your parent:

Name _____

Address

City, State, ZIP

An officer of your institution must complete the following section.

I certify to the accuracy of the data contained in this register.

Name of Officer

Signature _____

Date _____

[illegible]

[Actual Size: 8-1/2" x 14"]

LOAN/APPLICATION REGISTER CODE SHEET

Use the following codes to complete the Loan/Application Register. The instructions to the HMDA-LAR explain the proper use of each code.

Application or Loan Information		Applicant Information	Type of Purchaser
Type:		Race or National Origin:	0 -- Loan was not originated or was not sold in calendar year covered by register
1 -- Conventional (any loan other than FHA, VA or FmHA loans)		1 -- American Indian or Alaskan Native	1 -- FNMA (Federal National Mortgage Association)
2 -- FHA-insured (Federal Housing Administration)		2 -- Asian or Pacific Islander	2 -- GNMA (Government National Mortgage Association)
3 -- VA-guaranteed (Veterans Administration)		3 -- Black	3 -- FHLMC (Federal Home Loan Mortgage Corporation)
4 -- FmHA-insured (Farmers Home Administration)		4 -- Hispanic	4 -- FmHA (Farmers Home Administration)
Purpose:		5 -- White	5 -- Commercial bank
1 -- Home purchase (one-to-four family)		6 -- Other	6 -- Savings bank or savings association
2 -- Home improvement (one-to-four family)		7 -- Information not provided by applicant in mail or telephone application	7 -- Life insurance company
3 -- Refinancing (home purchase or home improvement, one-to-four family)		8 -- Not applicable	8 -- Affiliate institution
4 -- Multifamily dwelling (home purchase, home improvement, and refinancings)			9 -- Other type of purchaser
Owner-Occupancy:		Sex:	Reasons for Denial (optional)
1 -- Owner-occupied as a principal dwelling		1 -- Male	1 -- Debt-to-income ratio
2 -- Not owner-occupied		2 -- Female	2 -- Employment history
3 -- Not applicable		3 -- Information not provided by applicant in mail or telephone application	3 -- Credit history
Action Taken:		4 -- Not applicable	4 -- Collateral
1 -- Loan originated			5 -- Insufficient cash (downpayment, closing costs)
2 -- Application approved but not accepted			6 -- Unverifiable information
3 -- Application denied by financial institution			7 -- Credit application incomplete
4 -- Application withdrawn by applicant			8 -- Mortgage insurance denied
5 -- File closed for incompleteness			9 -- Other
6 -- Loan purchased by your institution			

[Reg. C, 56 FR 59857, Nov. 26, 1991, as amended at 57 FR 20400, May 13, 1992; 57 FR 56965, 56967, Dec. 2, 1992; 58 FR 13405, Mar. 11, 1993; 59 FR 63704, Dec. 9, 1994; 60 FR 22225, May 4, 1995; 62 FR 28623, 28624, May 27, 1997; 62 FR 33340, June 19, 1997]

APPENDIX B TO PART 203—FORM AND INSTRUCTIONS FOR DATA COLLECTION ON RACE OR NATIONAL ORIGIN AND SEX

I. Instructions on collection of data on race or national origin and sex.

A. Format.

You may list questions regarding the race or national origin and sex of the applicant on your loan application form, or on a separate form that refers to the application. (See the sample form below for recommended language.)

B. Procedures.

1. You must ask for this information, but cannot require the applicant to provide it.
2. If the applicant chooses not to provide the information for an application taken in person, note this fact on the form and note the data, to the extent possible, on the basis of visual observation or surname.

3. Inform the applicant that the Federal government is requesting this information in order to monitor compliance with Federal statutes that prohibit lenders from discriminating against applicants on these bases. Inform the applicant that if the information is not provided where the application is taken in person, you are required to note the data on the basis of visual observation or surname.

4. If an application is made entirely by telephone, you need not request this information. And you need not provide the data when you take an application by mail, if the applicant fails to answer these questions on the application form. You should indicate whether an application was received by mail or telephone, if it is not otherwise evident on the face of the application.

5. The "other" block is available only to the applicant who chooses to indicate some other appropriate category for race or national origin. If completing the form based on visual observation, do not use this category; use one of the other five categories.

II. Sample race or national origin and sex data collection form

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the federal government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may not discriminate on the basis of this information, or on whether you choose to furnish it. However, if you choose not to furnish the information and you have made this application in person, under federal regulations the lender is required to note race or national origin and sex on the basis of visual observation or surname. If you do not wish to furnish the information, please check below.

APPLICANT:

☐ I do not wish to furnish this information

Race or National Origin:

- ☐ American Indian, Alaskan Native
☐ Asian, Pacific Islander
☐ Black
☐ Hispanic
☐ White
☐ Other (specify) _____

Sex:

- ☐ Female
☐ Male

CO-APPLICANT:

☐ I do not wish to furnish this information

Race or National Origin:

- ☐ American Indian, Alaskan Native
☐ Asian, Pacific Islander
☐ Black
☐ Hispanic
☐ White
☐ Other (specify) _____

Sex:

- ☐ Female
☐ Male
-

SUPPLEMENT I TO PART 203—STAFF
COMMENTARY

Introduction

1. *Status and citations.* The commentary in this supplement is the vehicle by which the Division of Consumer and Community Affairs of the Federal Reserve Board issues formal staff interpretations of Regulation C (12 CFR part 203). The parenthetical citations given are references to Appendix A to Regulation C, Form and Instructions for Completion of the HMDA Loan/Application Register.

Section 203.1—Authority, Purpose, and Scope

1(c) *Scope.*

1. *General.* The comments in this section address issues affecting coverage of institutions, exemptions from coverage, and data collection requirements. (Appendix A of this part, I., IV., and V.)

2. *Meaning of refinancing.* A refinancing of a loan is the satisfaction and replacement of an existing obligation by a new obligation by the same borrower. The term “refinancing” refers to the new obligation. If the existing obligation is not satisfied and replaced, but is only renewed, modified, extended, or consolidated (as in certain modification, extension, and consolidation agreements), the transaction is not a refinancing for purposes of HMDA. (Appendix A of this part, Paragraph V.A.5. Code 3.)

3. *Refinancing—coverage.* The regulation bases coverage, in part, on whether an institution originates home purchase loans. For determining whether an institution is subject to Regulation C or is exempt from coverage, an origination of a home-purchase loan includes the refinancing of a home-purchase loan. An institution may always determine the actual purpose of the existing obligation (for example, by reference to available documents). (Appendix A of this part, Paragraphs I.B., I.C., and I.D.) Alternatively, an institution may:

i. Rely on the statement of the applicant that the existing obligation was (or was not) a home-purchase loan; or

ii. Assume that the new obligation is not a refinancing of a home-purchase loan if either the existing obligation or the new obligation is not secured by a first lien on the dwelling.

4. *Refinancing—data collection.* The regulation requires collection and reporting of data on refinancings of home-purchase and home-improvement loans. An institution may always determine the actual purpose of the existing obligation (for example, by reference to available documents). (Appendix A of this part, Paragraph V.A.5. Code 3.) Alternatively, an institution may:

i. Rely on the statement of the applicant that the existing obligation was (or was not)

a home-purchase or home-improvement loan; or

ii. Assume that the new obligation is a refinancing of a home-purchase or home-improvement loan only if the existing obligation was secured by a lien on a dwelling; or

iii. Assume that the new obligation is a refinancing of a home-purchase or home-improvement loan only if the new obligation will be secured by a lien on a dwelling.

5. *The broker rule and the meaning of “broker” and “investor.”* For the purposes of the guidance given in this commentary, an institution that takes and processes a loan application and arranges for another institution to acquire the loan at or after closing is acting as a “broker,” and an institution that acquires a loan from a broker at or after closing is acting as an “investor.” (The terms used in this commentary may have different meanings in certain parts of the mortgage lending industry and other terms may be used in place of these terms, for example in the Federal Housing Administration mortgage insurance programs.) Depending on the facts, a broker may or may not make a credit decision on an application (and thus it may or may not have reporting responsibilities). If the broker makes a credit decision, it reports that decision; if it does not make a credit decision, it does not report. If an investor reviews an application and makes a credit decision prior to closing, the investor reports that decision. If the investor does not review the application prior to closing, it reports only the loans that it purchases; it does not report the loans it does not purchase. Thus, an institution that makes a credit decision on an application prior to closing reports that decision regardless of whose name the loan closes in. (Appendix A of this part, Paragraphs IV.A. and V.B.)

6. *Illustrations of the broker rule.* Assume that, prior to closing, four investors receive the same application from a broker; two deny it, one approves it, and one approves it and acquires the loan. In these circumstances, the first two report denials, the third reports the transaction as approved but not accepted, and the fourth reports an origination (whether the loan closes in the name of the broker or the investor). Alternatively, assume that the broker denies a loan before sending it to an investor; in this situation, the broker reports a denial. (Appendix A of this part, Paragraphs IV.A. and V.B.)

7. *Broker’s use of investor’s underwriting criteria.* If a broker makes a credit decision based on underwriting criteria set by an investor, but without the investor’s review prior to closing, the broker has made the credit decision. The broker reports as an origination a loan that it approves and closes, and reports as a denial an application

that it turns down (either because the application does not meet the investor's underwriting guidelines or for some other reason). The investor reports as purchases only those loans it purchases. (Appendix A of this part, Paragraphs IV.A. and V.B.)

8. *Insurance and other criteria.* If an institution evaluates an application based on the criteria or actions of a third party other than an investor (such as a government or private insurer or guarantor), the institution must report the action taken on the application (loan originated, approved but not accepted, or denied, for example). (Appendix A of this part, Paragraphs IV.A. and V.B.)

9. *Credit decision of agent is decision of principal.* If an institution approves loans through the actions of an agent, the institution must report the action taken on the application (loan originated, approved but not accepted, or denied, for example). State law determines whether one party is the agent of another. (Appendix A of this part, Paragraphs IV.A. and V.B.)

10. *Affiliate bank underwriting (250.250 review).* If an institution makes an independent evaluation of the creditworthiness of an applicant (for example, as part of a pre-closing review by an affiliate bank under 12 CFR 250.250, which interprets section 23A of the Federal Reserve Act), the institution is making a credit decision. If the institution then acquires the loan, it reports the loan as an origination whether the loan closes in the name of the institution or its affiliate. An institution that does not acquire the loan but takes another action reports that action. (Appendix A of this part, Paragraphs IV.A. and V.B.)

11. *Participation loan.* An institution that originates a loan and then sells partial interests to other institutions reports the loan as an origination. An institution that acquires only a partial interest in such a loan does not report the transaction even if it has participated in the underwriting and origination of the loan. (Appendix A of this part, Paragraphs I., II., IV., and V.)

12. *Assumptions.* An assumption occurs when an institution enters into a written agreement accepting a new borrower as the obligor on an existing obligation. An institution reports as a home-purchase loan an assumption (or an application for an assumption) in the amount of the outstanding principal. If a transaction does not involve a written agreement between a new borrower and the institution, it is not an assumption for HMDA purposes and is not reported. (Appendix A of this part, Paragraphs IV.A. and V.B.)

Section 203.2—Definitions

2(b) Application.

1. *Consistency with Regulation B.* Board interpretations that appear in the official staff commentary to Regulation B (Equal Credit

Opportunity, 12 CFR Part 202, Supplement I) are generally applicable to the definition of an application under Regulation C. However, under Regulation C the definition of an application does not include prequalification requests. (Appendix A of this part, Paragraph IV.A.)

2. *Prequalification.* A prequalification request is a request by a prospective loan applicant for a preliminary determination on whether the prospective applicant would likely qualify for credit under an institution's standards, or on the amount of credit for which the prospective applicant would likely qualify. Some institutions evaluate prequalification requests through a procedure that is separate from the institution's normal loan application process; others use the same process. In either case, Regulation C does not require an institution to report prequalification requests on the HMDA-LAR, even though these requests may constitute applications under Regulation B. (Appendix A of this part, Paragraphs I. and IV.A.)

2(c) Branch office.

1. *Credit union.* For purposes of Regulation C, a "branch" of a credit union is any office where member accounts are established or loans are made, whether or not the office has been approved as a branch by a federal or state agency. (See 12 U.S.C. 1752.) (Appendix A of this part, Paragraphs I., V.A.7., and V.C.)

2. *Depository institution.* A branch of a depository institution does not include a loan production office, the office of an affiliate, or the office of a third party such as a loan broker. (Appendix A of this part, Paragraphs I., V.A.7., and V.C.) (But see Appendix A of this part, Paragraph V.C.7., which requires certain depository institutions to report property location even for properties located outside those MSAs in which the institution has a home or branch office.)

3. *Nondepository institution.* A branch of a nondepository institution does not include the office of an affiliate or other third party such as a loan broker. (Appendix A of this part, Paragraphs I., V.A.7., and V.C.) (But see Appendix A of this part, Paragraph V.C.6., which requires certain nondepository institutions to report property location even in MSAs where they do not have a physical location.)

2(d) Dwelling.

1. *Scope.* The definition of "dwelling" is not limited to the principal or other residence of the applicant or borrower, and thus includes vacation or second homes and rental properties. A dwelling also includes a mobile or manufactured home, a multifamily structure (such as an apartment building), and a condominium or a cooperative unit. Recreational vehicles such as boats or campers

are not dwellings for purposes of HMDA. (Appendix A of this part, Paragraphs I.B., IV., and V.A.5.)

2(e) Financial institution.

1. *Branches of foreign banks—treated as a bank.* A federal branch or a state-licensed insured branch of a foreign bank is a “bank” under section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)), and is covered by HMDA if it meets the tests for a depository institution found in §§203.2(e)(1) and 203.3(a)(1) of Regulation C. (Appendix A of this part, Paragraphs I.A. and I.B.)

2. *Branches and offices of foreign banks—treated as a for-profit mortgage lending institution.* Federal agencies, state-licensed agencies, state-licensed uninsured branches of foreign banks, commercial lending companies owned or controlled by foreign banks, and entities operating under section 25 or 25(a) of the Federal Reserve Act, 12 U.S.C. 601 and 611 (Edge Act and Agreement corporations) are not “banks” under the Federal Deposit Insurance Act. These entities are nonetheless covered by HMDA if they meet the tests for a nondepository mortgage lending institution found in §§203.2(e)(2) and 203.3(a)(2) of Regulation C. (Appendix A of this part, Paragraphs I.C. and I.D.)

2(f) Home-improvement loan.

1. *Definition.* A home-improvement loan is a loan that is made for the purpose of home improvement and that is classified by the institution as a home-improvement loan. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.)

2. *Statement of the applicant.* An institution may rely on the oral or written statement of an applicant regarding the proposed use of loan proceeds. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.c.)

3. *Home-equity lines.* An institution that has chosen to report home-equity lines of credit reports as a home-improvement loan only the part of a home-equity line that is intended for home improvement. An institution that reports home-equity lines reports the disposition of all applications, not just originations. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.c.)

4. *Classification requirement.* An institution has “classified” a loan as a home-improvement loan if it has entered the loan on its books as a home-improvement loan, or has otherwise coded or identified the loan as a home-improvement loan. For example, an institution that has booked a loan or reported it on a “call report” as a home-improvement loan has classified it as a home-improvement loan. An institution may also classify loans as home-improvement loans in other ways (for example, by color-coding loan files). (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.)

5. *Improvements to real property.* Home improvements include improvements both to a dwelling and to the real property on which

the dwelling is located (for example, installation of a swimming pool, construction of a garage, or landscaping). (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.)

6. *Commercial and other loans.* A loan for improvement purposes originated outside an institution’s consumer lending division (such as a loan to improve an apartment building made through the commercial loan department) is reported if the institution classifies it as a home-improvement loan. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 1.)

7. *Multiple-purpose loan.* A loan for home improvement and for other purposes is treated as a home-improvement loan even if less than 50 percent of the total loan proceeds are to be used for improvement, provided the institution classifies the loan as a home-improvement loan. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.) (But see comment (2)(f)-3 of this supplement on home-equity lines of credit.)

8. *Mixed-use property.* A loan to improve property used for residential and commercial purposes (for example, a building containing apartment units and retail space) satisfies the purpose requirement if the loan proceeds are primarily to improve the residential portion of the property. If the loan proceeds are to improve the entire property (for example, to replace the heating system), the loan satisfies the purpose requirement if the property itself is primarily residential. An institution may use any reasonable standard to determine the primary use of the property, such as by square footage or by the income generated. An institution may select the standard to apply on a case-by-case basis. To report the loan as a home-improvement loan, the institution must also classify it as such. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.)

2(g) Home-purchase loan.

1. *Multiple properties.* A home-purchase loan includes a loan secured by one dwelling and used to purchase another dwelling. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 1.)

2. *Mixed-use property.* A loan to purchase property used primarily for residential purposes (for example, an apartment building containing a convenience store) is a home-purchase loan. An institution may use any reasonable standard to determine the primary use of the property, such as by square footage or by the income generated. An institution may select the standard to apply on a case-by-case basis. (Appendix A of this part, Paragraphs IV.A., IV.B.1., and V.A.5. Code 1.)

3. *Farm loan.* A loan to purchase property used primarily for agricultural purposes is not a home-purchase loan even if the property includes a dwelling. An institution may use any reasonable standard to determine the primary use of the property, such as by

reference to the exemption from Regulation X (Real Estate Settlement Procedures, 24 CFR 3500.5(b)(1)) for a loan on property of 25 acres or more. An institution may select the standard to apply on a case-by-case basis. (Appendix A of this part, Paragraphs IV.B.1. and V.A.5. Code 1.)

4. *Commercial and other loans.* A home-purchase loan includes a loan originated outside an institution's residential mortgage lending division (such as a loan for the purchase of an apartment building made through the commercial loan department). For home-purchase loans, there is no classification test. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 1.)

5. *Construction and permanent financing.* A home-purchase loan includes both a combined construction/permanent loan and the permanent financing that replaces a construction-only loan. It does not include a construction-only loan, which is considered "temporary financing" under Regulation C and is not reported. (Appendix A of this part, Paragraphs IV.A. and B.2, and V.A.5. Code 1.)

6. *Home-equity line.* An institution that has chosen to report home-equity lines of credit reports as a home-purchase loan only the part that is intended for home purchase. An institution may rely on the applicant's oral or written statement about the proposed use of the funds. An institution that reports home-equity lines reports the disposition of all applications, not just the originations. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 1.)

Section 203.3—Exempt Institutions

3(a) *Exemption based on location, asset size, or number of home-purchase loans.*

1. *General.* An institution that ceases to meet the tests for HMDA coverage (such as the 10 percent test for nondepository institutions) or becomes exempt may stop collecting HMDA data beginning with the next calendar year. For example, a bank whose assets are at or below the threshold on December 31 of a given year reports data for that full calendar year, in which it was covered, but does not report data for the succeeding calendar year. (Appendix A of this part, Paragraph I.)

2. *Adjustment of exemption threshold for depository institutions.* For data collection in 1998, the asset-size exemption threshold is \$29 million. Depository institutions with assets at or below \$29 million are exempt from collecting data for 1998.

3. *Coverage after a merger.* Several scenarios of data collection responsibilities for the calendar year of a merger are described below. Under all the scenarios, if the merger results in a covered institution, that institution must begin data collection January 1 of the following calendar year. (Appendix A of this part, Paragraph I.)

i. Two institutions are exempt from Regulation C because of asset size. The institutions merge. No data collection is required for the year of the merger (even if the merger results in a covered institution).

ii. A covered institution and an exempt institution merge. The covered institution is the surviving institution. For the year of the merger, data collection is required for the covered institution's transactions. Data collection is optional for transactions handled in offices of the previously exempt institution.

iii. A covered institution and an exempt institution merge. The exempt institution is the surviving institution, or a new institution is formed. Data collection is required for transactions of the covered institution that take place prior to the merger. Data collection is optional for transactions taking place after the merger date.

iv. Two covered institutions merge. Data collection is required for the entire year. The surviving or resulting institution files either a consolidated submission or separate submissions for that year.

4. *Mergers versus purchases in bulk.* If a covered institution acquires loans in bulk from another institution (for example, from the receiver for a failed institution) but no merger or acquisition of an institution is involved, the institution reports the loans as purchased loans. (Appendix A of this part, Paragraph V.B.)

Section 203.4—Compilation of Loan Data

4(a) *Data format and itemization.*

1. *Quarterly updating.* An institution must make a good-faith effort to record all data concerning covered transactions—loan originations (including refinancings), loan purchases, and the disposition of applications that did not result in originations—fully and accurately within 30 days after the end of each calendar quarter. If some data are inaccurate or incomplete despite this good-faith effort, the error or omission is not a violation of Regulation C provided that the institution corrects and completes the information prior to reporting the HMDA-LAR to its regulatory agency. (Appendix A of this part, Paragraph II.E.)

2. *Updating—agency requirements.* Certain state or federal regulations, such as the Federal Deposit Insurance Corporation's regulations, may require an institution to update its data more frequently than is required under Regulation C. (Appendix A of this part, Paragraph II.E.)

3. *Form of updating.* An institution may maintain the quarterly updates of the HMDA-LAR in electronic or any other format, provided the institution can make the information available to its regulatory agency in a timely manner upon request. (Appendix A of this part, Paragraph II.E.)

Paragraph 4(a)(1) Application date.

1. *Application date—consistency.* In reporting the date of application, an institution reports the date the application was received or the date shown on the application. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans). (Appendix A of this part, Paragraph V.A.2.)

2. *Application date—application forwarded by a broker.* For an application forwarded by a broker, an institution reports the date the application was received by the broker, the date the application was received by the institution, or the date shown on the application. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans). (Appendix A of this part, Paragraph V.A.2.)

3. *Application date—reinstated application.* If, within the same calendar year, an applicant asks an institution to reinstate a counteroffer that the applicant previously did not accept (or asks the institution to reconsider an application that was denied, withdrawn, or closed for incompleteness), the institution may treat that request as the continuation of the earlier transaction or as a new transaction. If the institution treats the request for reinstatement or reconsideration as a new transaction, it report the date of the request as the application date. (Appendix A of this part, Paragraph V.A.2.)

Paragraph 4(a)(2) Type and purpose.

1. *Purpose—multiple-purpose loan.* If a loan is for home improvement and another covered purpose, an institution reports the loan as a home-improvement loan if the institution classifies it as a home-improvement loan. Otherwise the institution reports the loan as a home-purchase loan or a refinancing, as appropriate. An institution may determine how to report such loans on a case-by-case basis. (Appendix A of this part, Paragraphs V.A.4. and 5.)

Paragraph 4(a)(3) Occupancy.

1. *Occupancy—actual occupancy status.* If a loan relates to multifamily property, property located outside an MSA, or property in an MSA where the institution has no home or branch office, the institution may either report the actual occupancy status or report using the code for “not applicable.” (A non-depository institution may be deemed to have a home or branch office in an MSA under §203.2(c)(2) of Regulation C.) (Appendix A of this part, Paragraph V.A.7.)

2. *Occupancy—multiple properties.* If a loan relates to multiple properties, the institution reports the owner-occupancy status of the property for which property location is being reported. (See the comments to paragraphs

4(a)(6) Property location.) (Appendix A of this part, Paragraphs V.A.6. and 7.)

Paragraph 4(a)(4) Loan amount.

1. *Loan amount—counteroffer.* If an applicant accepts a counteroffer for an amount different from the amount initially requested, the institution reports the loan amount granted. If an applicant does not accept a counteroffer or fails to respond, the institution reports the loan amount initially requested. (Appendix A of this part, Paragraph V.A.8.f.)

2. *Loan amount—multiple-purpose loan.* Except in the case of a home-equity line of credit, an institution reports the entire amount of the loan, even if only a part of the proceeds is intended for home purchase or home improvement. (Appendix A of this part, Paragraph V.A.8.)

3. *Loan amount—home-equity line.* An institution that reports home-equity lines of credit reports only the part that is intended for home-improvement or home-purchase purposes. An institution may rely on the applicant’s oral or written statement about the proposed use of the loan proceeds. (Appendix A of this part, Paragraph V.A.8.c.)

4. *Loan amount—assumption.* An institution that enters into a written agreement accepting a new party as the obligor on a loan reports the amount of the outstanding principal on the assumption as the loan amount. (Appendix A of this part, Paragraphs V.A.8.)

Paragraph 4(a)(5) Type of action taken and date.

1. *Action taken—counteroffers.* If an institution makes a counteroffer to lend on terms different from the applicant’s initial request (for example, for a shorter loan maturity) and the applicant does not accept the counteroffer or fails to respond, the institution reports the action taken as a denial. (Appendix A of this part, Paragraph V.B.)

2. *Action taken—rescinded transactions.* If a borrower rescinds a transaction after closing, the institution, on a case-by-case basis, may report the transaction either as an origination or as an application that was approved but not accepted. (Appendix A of this part, Paragraph V.B.)

3. *Action taken—purchased loans.* An institution reports the loans that it purchased during the calendar year, and does not report the loans that it declined to purchase. (Appendix A of this part, Paragraph V.B.)

4. *Action taken—conditional approvals.* If an institution issues a loan approval subject to the applicant’s meeting underwriting conditions (other than customary loan commitment or loan closing conditions, such as a “clear title” requirement or an acceptable property survey) and the applicant does not meet them, the institution reports the action taken as a denial. (Appendix A of this part, Paragraph V.B.)

5. *Action taken date—approved but not accepted.* For a loan approved by an institution

but not accepted by the applicant, the institution reports using any reasonable date, such as the approval date, the deadline for accepting the offer, or the date the file was closed. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans). (Appendix A of this part, Paragraph V.B.3.b.)

6. *Action taken date—originations.* For loan originations, an institution generally reports the settlement or closing date. For loan originations that an institution acquires through a broker, the institution reports either the settlement or closing date, or the date the institution acquired the loan from the broker. If the disbursement of funds takes place on a date later than the settlement or closing date, the institution may use the date of disbursement. For a construction/permanent loan, the institution reports either the settlement or closing date, or the date the loan converts to the permanent financing. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans). (Appendix A of this part, Paragraph V.B.3.)

Paragraph 4(a)(6) Property location.

1. *Property location—multiple properties (home improvement/refinance of home improvement).* For a home-improvement loan, an institution reports the property being improved. If more than one property is being improved, the institution reports the location of one of the properties or reports the loan using multiple entries on its HMDA-LAR (with unique identifiers) and allocating the loan amount among the properties. (Appendix A of this part, Paragraph V.C.)

2. *Property location—multiple properties (home purchase/refinance of home purchase).* For a home-purchase loan, an institution reports the property taken as security. If an institution takes more than one property as security, the institution reports the location of the property being purchased if there is just one. If the loan is to purchase multiple properties and is secured by multiple properties, the institution reports the location of one of the properties or reports the loan using multiple entries on its HMDA-LAR (with unique identifiers) and allocating the loan amount among the properties. (Appendix A of this part, Paragraph V.C.)

3. *Property location—loans purchased from another institution.* The requirement to report the property location by census tract in an MSA where the institution has a home or branch office applies not only to loan applications and originations but also to loans purchased from another institution. This includes loans purchased from an institution

that did not have a home or branch office in that MSA and did not collect the property location information. (Appendix A of this part, Paragraph V.C.)

4. *Property location—mobile or manufactured home.* If information about the potential site of a mobile or manufactured home is not available, an institution reports using the code for “not applicable.” (Appendix A of this part, Paragraph V.C.)

5. *Property location—use of BNA.* At its option, an institution may report property location by using a block numbering area (BNA). The U.S. Census Bureau, in conjunction with state agencies, has established BNAs as statistical subdivisions of counties in which census tracts have not been established. BNAs are generally identified in census data by numbers in the range 9501 to 9999.99. (Appendix A of this part, Paragraph V.C.4.)

Paragraph 4(a)(7) Applicant and income data.

1. *Applicant data—completion by applicant.*

An institution reports the monitoring information as provided by the applicant. For example, if an applicant checks the “other” box the institution reports using the “other” code. (Appendix A of this part, Paragraph V.D.)

2. *Applicant data—completion by lender.* If an applicant fails to provide the requested information for an application taken in person, the institution reports the data on the basis of visual observation or surname. As stated in paragraph I.B.5 to Appendix B of this part, the institution does not use the “other” code, but selects from the categories listed on the form. (Appendix A of this part, Paragraph V.D.)

3. *Applicant data—application completed in person.* When an applicant meets in person with a lender to complete an application that was begun by mail or telephone, the institution must request the monitoring information. If the meeting occurs after the application process is complete, for example, at closing, the institution is not required to obtain monitoring information. (Appendix A of this part, Paragraph V.D.)

4. *Applicant data—joint applicant.* A joint applicant may enter the government monitoring information on behalf of an absent joint applicant. If the information is not provided, the institution reports using the code for “information not provided by applicant in mail or telephone application.” (Appendix A of this part, Paragraph V.D.)

5. *Applicant data—video and other electronic application processes.* An institution that accepts applications through electronic media with a video component treats the applications as taken in person and collects the information about the race or national origin and sex of applicants. An institution that accepts applications through electronic media without a video component (for example, the Internet or facsimile) treats the applications

as accepted by mail. (Appendix A of this part, Paragraph V.D.) (See Appendix B of this part for procedures to be used for data collection.)

6. *Income data—income relied upon.* An institution reports the gross annual income relied on in evaluating the creditworthiness of applicants. For example, if an institution relies on an applicant's salary to compute a debt-to-income ratio, but also relies on the applicant's annual bonus to evaluate creditworthiness, the institution reports the salary and the bonus to the extent relied upon. Similarly, if an institution relies on the income of a cosigner to evaluate creditworthiness, the institution includes this income to the extent relied upon. But an institution does not include the income of a guarantor who is only secondarily liable. (Appendix A of this part, Paragraph V.D.5.)

7. *Income data—co-applicant.* If two persons jointly apply for a loan and both list income on the application, but the institution relies only on the income of one applicant in computing ratios and in evaluating creditworthiness, the institution reports only the income relied on. (Appendix A of this part, Paragraph V.D.5.)

8. *Income data—loan to employee.* An institution may report "NA" in the income field for loans to employees to protect their privacy, even though the institution relied on their income in making its credit decisions. (Appendix A of this part, Paragraph V.D.5.)

Paragraph 4(a)(8) Purchaser.

1. *Type of purchaser—loan participation interests sold to more than one entity.* An institution that originates a loan, and then sells it to more than one entity, reports the "type of purchaser" based on the entity purchasing the greatest interest, if any. If an institution retains a majority interest it does not report the sale. (Appendix A of this part, Paragraph V.E.)

4(c) Optional data.

1. *Agency requirements.* Certain state or federal entities, such as the Office of Thrift Supervision, require institutions to report the reasons for denial even though this is optional reporting under HMDA and Regulation C. (Appendix A of this part, Paragraph V.F.)

4(d) Excluded data.

1. *Loan pool.* The purchase of an interest in a loan pool (such as a mortgage-participation certificate, a mortgage-backed security, or a real estate mortgage investment conduit or "REMIC") is a purchase of an interest in a security under HMDA and is not reported on the HMDA-LAR. (Appendix A of this part, Paragraph IV.B.5.)

Section 203.5—Disclosure and Reporting

5(a) Reporting to agency.

1. *Change in supervisory agency.* If the supervisory agency for a covered institution changes (as a consequence of a merger or a

change in the institution's charter, for example), the institution reports data to its new supervisory agency for the year of the change and subsequent years. (Appendix A of this part, Paragraphs I., III. and VI.)

2. *Subsidiaries.* An institution is a subsidiary of a bank or savings association (for purposes of reporting HMDA data to the parent's supervisory agency) if the bank or savings association holds or controls an ownership interest that is greater than 50 percent of the institution. (Appendix A of this part, Paragraph I.E. and VI.)

5(e) Notice of availability.

1. *Poster—suggested text.* The suggested wording of the poster text provided in Appendix A of this part is optional. An institution may use other text that meets the requirements of the regulation. (Appendix A of this part, Paragraph III.F.)

Section 203.6—Enforcement

6(b) Bona fide errors.

1. *Bona fide error—information from third parties.* An institution that obtains the property location information for applications and loans from third parties (such as appraisers or vendors of "geocoding" services) is responsible for ensuring that the information reported on its HMDA-LAR is correct. An incorrect entry for a census tract number is a bona fide error, and is not a violation of the act or regulation, provided that the institution maintains reasonable procedures to avoid such errors (for example, by conducting periodic checks of the information obtained from these third parties). (Appendix A of this part, Paragraph V.C.)

[60 FR 63396, Dec. 11, 1995, as amended at 62 FR 28626, May 27, 1997; 62 FR 66260, Dec. 18, 1997]

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

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- 204.1 Authority, purpose and scope.
- 204.2 Definitions.
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- 204.121 Bankers' banks.
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